

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

**DEDICATED NURSING ASSOCIATES
INC.,**

Plaintiff,

v.

**BUCKEYE FOREST AT AKRON LLC,
d/b/a HIGHLAND SQUARE
REHABILITATION AND NURSING
CENTER**

Defendants.

CIVIL ACTION NO. **23-1597**

MEMORANDUM OPINION

This case was referred to a United States magistrate judge for pretrial proceedings in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1), and Local Rules of Court 72.C and 72.D. On October 4, 2024, the magistrate judge issued a Report and Recommendation (“R&R”) (ECF No. 57), which recommended that the motion to dismiss the complaint for lack of personal jurisdiction and failure to state a claim (ECF No. 7) filed by Defendants, Buckeye Forest at Akron LLC, et al., and the motion to dismiss for failure to state a claim (ECF No. 39) filed by Defendant, Hillstone Healthcare, be granted without prejudice to plaintiff’s ability to refile the complaint in the appropriate forum.

The R&R provided that any objections be filed within 14 days and that failure to timely file objections will waive the right to appeal. Plaintiff, Dedicated Nursing Associates Inc., is represented by counsel in this case. No party filed objections by that date. The R&R is ripe for review.

Standard of Review

Pursuant to 28 U.S.C. § 636(b) and Federal Rule of Civil Procedure 72, the district court “shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made” and “may also receive further evidence or recommit the matter to the magistrate judge with instructions.” 28 U.S.C. § 636(b)(1)(C). Rule 72(b)(3) requires de novo review of any recommendation that is dispositive of a claim or defense of a party to which proper objections were made. *See Fraunhofer-Gesellschaft Zur Forderung Der Angewandten Forschung E.V. v. Sirius XM Radio Inc.*, No. 1:17CV184, 2021 WL 1147010, at *1 (D. Del. Mar. 25, 2021).

Even if no objections are filed, the court should, as a matter of good practice, “satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” Fed. R. Civ. P. 72(b), advisory committee notes; *see also McClain v. Pennsylvania Department of Corrections*, No. 1:19-CV-1951, 2020 WL 1690081, at *1 (M.D. Pa. Apr. 7, 2020); *Univac Dental Co. v. Dentsply Intern., Inc.*, 702 F. Supp. 2d 465, 469 (M.D. Pa. 2010) (explaining that judges should review dispositive legal issues raised by the R&R for clear error).

Discussion

Following an independent review of the record, the court is satisfied that the R&R contains no clear error and will therefore accept the recommendation of the magistrate judge that the motions to dismiss of Buckeye Forest at Akron LLC, et al. (ECF No. 7) and Hillstone Healthcare (ECF No. 39) be granted without prejudice to plaintiff’s ability to refile the complaint

in the appropriate forum.

Plaintiff, Dedicated Nursing Associates Inc., did not meet a *prima facie* burden to establish facts to that would be sufficient to assert personal jurisdiction over the individual Defendants. Dedicated Nursing Associates Inc.'s claims against Hillstone Healthcare did not arise out of a controversy involving any Pennsylvania business relationship and did not reach any other *prima facie* establishment of personal jurisdiction. Further, Dedicated Nursing Associates Inc. fell short in their effort to establish personal jurisdiction over the other successor corporate Defendants, Buckeye Forest at Akron LLC, et al. The Magistrate Judge conducted a thorough and persuasive analysis of the jurisdictional issues.

Conclusion

For the reasons set forth above, the motions to dismiss (ECF No. 7) filed by Defendants Buckeye Forest at Akron LLC, et al. and Hillstone Healthcare (ECF No. 39) will be granted without prejudice. The court will adopt the R&R (ECF No. 57) as the opinion of the court as supplemented in this opinion. An appropriate order follows.

Dated: December 17, 2024

BY THE COURT

/s/ Joy Flowers Conti

JOY FLOWERS CONTI

SENIOR UNITED STATES DISTRICT JUDGE

